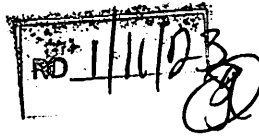


ORIGINAL



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JAN 10 2023

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

Sean F. Peterson

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-against-

New York City Department of Education; Francis DeSantis,
Principal of Rockaway Collegiate High School; Rafael Cruz,
Assistant Principal of Rockaway Rockaway Collegiate High
School

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

AMENDED

**Complaint for Employment
Discrimination**

Case No. 1:21-cv-03288-EK-LB

(to be filled in by the Clerk's Office)

Jury Trial: ☒ Yes ☐ No
(check one)

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	Sean F. Peterson
Street Address	36 Elsmere Avenue
City and County	Oakdale, Suffolk County
State and Zip Code	NY 11769
Telephone Number	(631) 235-2197
E-mail Address	seanforrestpeterson@gmail.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known). Attach additional pages if needed.

Defendant No. 1

Name	New York City Department of Education
Job or Title (if known)	
Street Address	65 Court Street
City and County	Brooklyn, Kings County
State and Zip Code	New York 11201
Telephone Number	
E-mail Address (if known)	

Defendant No. 2

Name	Francis DeSantis
Job or Title (if known)	Principal of Rockaway Collegiate High School
Street Address	100-00 Beach Channel Dr.
City and County	Rockaway Park, Queens County

SEAN F. PETERSON- FEDERAL COMPLAINT - ADDITIONAL DEFENDANTS

Defendant No. 3

Name: Rafael Cruz

Job or Title (if known): Assistant Principal of Rockaway Collegiate High School

Street Address: 100-00 Beach Channel Dr.

City and Zip Code: Rockaway Park, Queens County

Telephone Number 718-734-3290

E-mail Address

State and Zip Code NY 11694
Telephone Number (718) 734-3290
E-mail Address _____
(if known)

C. Place of Employment

The address at which I sought employment or was employed by the defendant(s) is:

Name Rockaway Collegiate High School
Street Address 100-00 Beach Channel Dr.
City and County Rockaway Park, Queens County
State and Zip Code NY 11694
Telephone Number (718) 734-3290

II. Basis for Jurisdiction

This action is brought for discrimination in employment pursuant to (check all that apply):

- ☒ Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (race, color, gender, religion, national origin).

(Note: In order to bring suit in federal district court under Title VII, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)

- ☒ Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 to 634.

(Note: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file a charge with the Equal Employment Opportunity Commission.)

- ☐ Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 to 12117.

(Note: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a Notice of Right to Sue letter from the Equal Employment Opportunity Commission.)

☐ Other federal law (*specify the federal law*):

☒ Relevant state law (*specify, if known*):

New York State Human Rights Law

☒ Relevant city or county law (*specify, if known*):

New York City Human Rights Law

III. Statement of Claim

Write a short and plain statement of the claim. Do not make legal arguments. State as briefly as possible the facts showing that each plaintiff is entitled to the damages or other relief sought. State how each defendant was involved and what each defendant did that caused the plaintiff harm or violated the plaintiff's rights, including the dates and places of that involvement or conduct. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

A. The discriminatory conduct of which I complain in this action includes (*check all that apply*):

☐ Failure to hire me.

☒ Termination of my employment.

☐ Failure to promote me.

☐ Failure to accommodate my disability.

☐ Unequal terms and conditions of my employment.

☐ Retaliation.

☒ Other acts (*specify*): Denied appeal after hearing panel recommended reinstatement

(*Note: Only those grounds raised in the charge filed with the Equal Employment Opportunity Commission can be considered by the federal district court under the federal employment discrimination statutes.*)

B. It is my best recollection that the alleged discriminatory acts occurred on date(s)

June 26, 2018 and July 31, 2019

C. I believe that defendant(s) (check one):

- ☐ is/are still committing these acts against me.
- ☐ is/are not still committing these acts against me.

D. Defendant(s) discriminated against me based on my (check all that apply and explain):

- ☒ race _____
- ☐ color _____
- ☐ gender/sex _____
- ☐ religion _____
- ☐ national origin _____
- ☒ age. My year of birth is 1976. (Give your year of birth only if you are asserting a claim of age discrimination.)
- ☐ disability or perceived disability (specify disability) _____

E. The facts of my case are as follows. Attach additional pages if needed.

Please see attached addendum.

(Note: As additional support for the facts of your claim, you may attach to this complaint a copy of your charge filed with the Equal Employment Opportunity Commission, or the charge filed with the relevant state or city human rights division.)

IV. Exhaustion of Federal Administrative Remedies

- A. It is my best recollection that I filed a charge with the Equal Employment Opportunity Commission or my Equal Employment Opportunity counselor regarding the defendant's alleged discriminatory conduct on *(date)*

8/19/2020

- B. The Equal Employment Opportunity Commission *(check one)*:

- ☐ has not issued a Notice of Right to Sue letter.
☒ issued a Notice of Right to Sue letter, which I received on *(date)*
5/10/2021

(Note: Attach a copy of the Notice of Right to Sue letter from the Equal Employment Opportunity Commission to this complaint.)

- C. Only litigants alleging age discrimination must answer this question.

Since filing my charge of age discrimination with the Equal Employment Opportunity Commission regarding the defendant's alleged discriminatory conduct *(check one)*:

- ☒ 60 days or more have elapsed.
☐ less than 60 days have elapsed.

V. Relief

State briefly and precisely what damages or other relief the plaintiff asks the court to order. Do not make legal arguments. Include any basis for claiming that the wrongs alleged are continuing at the present time. Include the amounts of any actual damages claimed for the acts alleged and the basis for these amounts. Include any punitive or exemplary damages claimed, the amounts, and the reasons you claim you are entitled to actual or punitive money damages.

I want the DOE to reverse its decision to terminate me, grant me tenure, backpay/ lost wages, ~~lost wages for lost per session/ overtime and emotional distress damages.~~

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 19, 2023

Signature of Plaintiff

Printed Name of Plaintiff

Sean Peterson
Sean Peterson

ADDENDUM TO FEDERAL AMENDED COMPLAINT FOR SEAN PETERSON

1. I worked for the NYCDOE from September 2010 as a high school earth science teacher until June 2018. I was appointed to and worked at the Rockaway Collegiate High School from September 2015 through my discontinuance in 2018.
2. I was always rated Satisfactory or Effective overall each year.
3. My probationary appointment was extended several times for no legitimate reasons and regardless of my actual performance.
4. In the 2017-18 school year at Rockaway Collegiate High School, I was rated Effective overall but nonetheless discontinued by a new Absent Teacher Reserve (ATR) Assistant Principal Rafael Cruz (who is Hispanic) and Principal Frances DeSanctis, who were new to the school. I had the highest Regents scores of any science teacher in the school.
5. The students at this high school are almost all black (52.0% of the students during the 2017-18 school year were black) and Hispanic (33.7% of the students during the 2017-18 school year were Hispanic). The administration told me I was "not a good fit" at the school during the 2017-18 school year at the time of my discontinuance.
6. I am presently 46 years old (born in 1976) and of Caucasian national origin.
7. I had an appeal hearing in May 2019 where the panel agreed with me that the discontinuance was arbitrary and capricious but yet the Chancellor upheld the discontinuance. During this hearing, a member of the panel noted that with the reasoning that I had deficiencies in some areas, my administration should have sent me to other schools or other teachers for observations and have supervisors come in to me to model lessons. On the contrary, a teacher was sent into my classroom by my administration to learn from me.
8. During this hearing, my union representative advised me that my denial would be reversed, which most of the members of the panel agreed with. Yet, the DOE discriminated again against me with the Chancellor denying my appeal on July 31, 2019.
9. I am aware that myself and another older probationary teacher Mathew Bautista (who taught mathematics) were discontinued while younger probationary teachers were not discontinued. Mr. Bautista is in his forties. He also received Effective overall ratings and was discontinued for no legitimate reasons. A non-Caucasian chemistry teacher, Ms. Parmeet Kaur, was not discontinued the year I was even though I had trained her. Ms. Kaur was in her second year of probationary period, and was subjected to the same performance evaluation as I was. Since the school administration assigned me to train her, it is common

sense that my performance and competency were better than Ms. Kaur's. However, Ms. Kaur remained at the school while I was discontinued based on alleged poor performance.

10. Galina Pavlova, a 60 year old Caucasian administrator was also forced out of the school. Ms. Pavlova was my mentor and head of the science department.
11. Upon information and belief, at the time of my discontinuance, the number of older Caucasian teachers at the Rockaway Collegiate High School decreased, while the number of younger non-Caucasian teachers increased. Probationary teachers over 40 years old were denied tenure while younger probationary teachers were granted tenure or granted an extension of their probationary period.
12. At the discontinuance hearing in May 2019, a black principal Hassan Fuller and the Hispanic AP Cruz testified against me at the hearing. During my discontinuance hearing in May 2019, when AP Cruz was asked about the reasons why he felt my ineffective areas rose to the level of denial of tenure, AP Cruz was not able to answer. He inconsistently indicated that there was a lack of student engagement and low level questioning while noting that I had excellent control of my classroom and excellent rapport with my students. The previous Principal DeSanctis had told me I was not a "good fit" the year I was discontinued.
13. I believe I am the victim of age and race discrimination based on this unjustified discontinuance.
14. I have submitted a FOIL request to obtain documentation to help support my case, but I have not received a response yet. I believe if my case can proceed to discovery I will be able to obtain the relevant documentation from the Defendants.

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To Sean F. Peterson
36 Elsmere Avenue
Oakdale, NY 11769

From New York District Office
33 Whitehall Street
5th Floor
New York, NY 10004

☐

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

Telephone No.

EEOC Charge No.

EEOC Representative

Holly M. Shabazz,
State & Local Program Manager

(929) 506-5316

16G-2020-03732

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

☐

The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.

☐

Your allegations did not involve a disability as defined by the Americans With Disabilities Act.

☐

The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.

☐

Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.

☐

The EEOC issues the following determination: The EEOC will not proceed further with its investigation, and makes no determination about whether further investigation would establish violations of the statute. This does not mean the claims have no merit. This determination does not certify that the respondent is in compliance with the statutes. The EEOC makes no finding as to the merits of any other issues that might be construed as having been raised by this charge.

☐

The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.

☒

Other (briefly state)

Charging Party wishes to pursue matter in Federal District Court.

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, the Genetic Information Nondiscrimination Act, or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a claim under state law may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

On behalf of the Commission

Judy A. Keenan

April 21, 2021

Enclosure(s)

Judy A. Keenan,
District Director

(Date/Initials)

NEW YORK CITY DEPARTMENT OF EDUCATION
Office of Legal Services
62 Chambers Street, Room 308
New York, NY 10007